

**U.S. District Court
District of Columbia (Washington, DC)
CIVIL DOCKET FOR CASE #: 1:18-cv-02399-KBJ**

NATIONAL ASSOCIATION OF CRIMINAL DEFENSE
LAWYERS v. FEDERAL BUREAU OF PRISONS et al
Assigned to: Judge Ketanji Brown Jackson
Cause: 05:552 Freedom of Information Act

Date Filed: 10/18/2018
Jury Demand: None
Nature of Suit: 895 Freedom of
Information Act
Jurisdiction: U.S. Government Defendant

Plaintiff

**NATIONAL ASSOCIATION OF
CRIMINAL DEFENSE LAWYERS**

represented by **Catherine Crump**
UC Berkeley, School of Law
433 Boalt Hall, North Addition
Berkeley, CA 94702
(510) 642-5049
Fax: (212) 549-2651
Email: ccrump@clinical.law.berkeley.edu
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Megan Graham
SAMUELSON LAW, TECHNOLOGY &
PUBLIC POLICY CLINIC
U.C. BERKELEY SCHOOL OF LAW
353 Boalt Hall
Berkeley, CA 94720-7200
(510) 664-4381
Email: mgraham@clinical.law.berkeley.edu
LEAD ATTORNEY
PRO HAC VICE
ATTORNEY TO BE NOTICED

Barry J. Pollack
ROBBINS, RUSSELL, ENGLERT,
ORSECK, UNTEREINER & SAUBER
LLP
2000 K Street, NW
4th Floor
Washington, DC 20006
(202) 775-4514
Fax: (202) 775-4510
Email: BPollack@robbinsrussell.com
ATTORNEY TO BE NOTICED

V.

Defendant

FEDERAL BUREAU OF PRISONS

represented by **Darrell C. Valdez**
U.S. ATTORNEY'S OFFICE FOR THE
DISTRICT OF COLUMBIA
555 Fourth Street, NW
Washington, DC 20530
(202) 252-2507
Email: darrell.valdez@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

William Mark Nebeker
U.S. ATTORNEY'S OFFICE FOR THE

DISTRICT OF COLUMBIA
 555 Fourth Street, NW
 Washington, DC 20530
 (202) 252-2536
 Fax: (202) 252-2599
 Email: mark.nebeker@usdoj.gov
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

DEPARTMENT OF JUSTICE

represented by **Darrell C. Valdez**
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

William Mark Nebeker
 (See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
10/18/2018	<u>1</u>	COMPLAINT against All Defendants (Filing fee \$ 400 receipt number 0090-5745920) filed by NATIONAL ASSOCIATION OF CRIMINAL DEFENSE LAWYERS. (Attachments: # <u>1</u> Appendix A, # <u>2</u> Appendix B, # <u>3</u> Civil Cover Sheet, # <u>4</u> Summons, # <u>5</u> Summons)(Pollack, Barry) Modified on 10/22/2018 (zrdj). (Entered: 10/18/2018)
10/18/2018	<u>2</u>	NOTICE of Appearance by Barry J. Pollack on behalf of NATIONAL ASSOCIATION OF CRIMINAL DEFENSE LAWYERS (Pollack, Barry) (Entered: 10/18/2018)
10/18/2018	<u>3</u>	MOTION for Leave to Appear Pro Hac Vice :Attorney Name- Catherine Crump, :Firm- Samuelson Law, Technology & Public Policy Clinic, U.C. Berkeley School of Law, :Address- 353 Boalt Hall, Berkeley, CA 94720-7200. Phone No. - 510-642-5049. Filing fee \$ 100, receipt number 0090-5746136. Fee Status: Fee Paid. by NATIONAL ASSOCIATION OF CRIMINAL DEFENSE LAWYERS (Attachments: # <u>1</u> Declaration, # <u>2</u> Text of Proposed Order)(Pollack, Barry) Modified on 10/22/2018 (zrdj). (Entered: 10/18/2018)
10/18/2018	<u>4</u>	MOTION for Leave to Appear Pro Hac Vice :Attorney Name- Megan Graham, :Firm- Samuelson Law, Technology & Public Policy Clinic, U.C. Berkeley School of Law, :Address- 353 Boalt Hall, Berkeley, CA 94720-7200. Phone No. - 510-664-4381. Filing fee \$ 100, receipt number 0090-5746155. Fee Status: Fee Paid. by NATIONAL ASSOCIATION OF CRIMINAL DEFENSE LAWYERS (Attachments: # <u>1</u> Declaration, # <u>2</u> Text of Proposed Order)(Pollack, Barry) (Entered: 10/18/2018)
10/18/2018		Case Assigned to Judge Ketanji Brown Jackson. (zmd) (Entered: 10/23/2018)
10/23/2018	<u>5</u>	SUMMONS (2) Issued Electronically as to DEPARTMENT OF JUSTICE, FEDERAL BUREAU OF PRISONS. (Attachments: # <u>1</u> Notice and Consent)(jf) (Entered: 10/23/2018)
10/24/2018	<u>6</u>	GENERAL ORDER AND GUIDELINES APPLICABLE TO FOIA CASES ASSIGNED TO JUDGE KETANJI BROWN JACKSON. The Court will hold the parties and counsel responsible for following these directives, and parties and counsel should pay particular attention to the Court's instructions for processing and production of records, batching motions, and filing exhibits. Failure to adhere to this Order may, when appropriate, result the imposition of sanctions and/or sua sponte denial of non-conforming motions. Signed by Judge Ketanji Brown Jackson on 10/24/2018. (lckbj1) (Entered: 10/24/2018)
10/31/2018	<u>7</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General

		10-31-18. (Pollack, Barry) (Entered: 10/31/2018)
10/31/2018	<u>8</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. DEPARTMENT OF JUSTICE served on 10/31/2018; FEDERAL BUREAU OF PRISONS served on 10/30/2018 (Pollack, Barry) (Entered: 10/31/2018)
11/15/2018	<u>9</u>	AMENDED COMPLAINT (<i>Amended Complaint for Injunctive Relief</i>) against DEPARTMENT OF JUSTICE, FEDERAL BUREAU OF PRISONS filed by NATIONAL ASSOCIATION OF CRIMINAL DEFENSE LAWYERS. (Attachments: # <u>1</u> Appendix Index of Appendices, # <u>2</u> Appendix A – The BOP Request, # <u>3</u> Appendix B – The DOJ Request, # <u>4</u> Appendix C – The EOUSA Request, # <u>5</u> Appendix D – Redlined Amended Complaint, # <u>6</u> Summons Bureau of Prisons, # <u>7</u> Summons Department of Justice)(Pollack, Barry) (Entered: 11/15/2018)
11/15/2018	<u>10</u>	NOTICE of Appearance by William Mark Nebeker on behalf of DEPARTMENT OF JUSTICE, FEDERAL BUREAU OF PRISONS (Nebeker, William) (Entered: 11/15/2018)
11/19/2018		MINUTE ORDER granting <u>3</u> , <u>4</u> Motion for Leave to Appear Pro Hac Vice. It is hereby ORDERED that Catherine Crump and Megan Graham are admitted Pro Hac Vice in this matter as counsel for Plaintiff. Signed by Judge Ketanji Brown Jackson on 11/19/2018. (lckbj1) (Entered: 11/19/2018)
11/26/2018	<u>11</u>	SUMMONS (2) Issued Electronically as to DEPARTMENT OF JUSTICE, FEDERAL BUREAU OF PRISONS. (jf) (Entered: 11/26/2018)
11/30/2018	<u>12</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. FEDERAL BUREAU OF PRISONS served on 11/30/2018 (Graham, Megan) (Entered: 11/30/2018)
11/30/2018	<u>13</u>	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. DEPARTMENT OF JUSTICE served on 11/30/2018 (Graham, Megan) (Entered: 11/30/2018)
12/11/2018	<u>14</u>	NOTICE by DEPARTMENT OF JUSTICE, FEDERAL BUREAU OF PRISONS (Nebeker, William) (Entered: 12/11/2018)
12/14/2018	<u>15</u>	Consent MOTION for Extension of Time to File Answer re <u>9</u> Amended Complaint, by DEPARTMENT OF JUSTICE, FEDERAL BUREAU OF PRISONS (Attachments: # <u>1</u> Text of Proposed Order)(Valdez, Darrell) (Entered: 12/14/2018)
12/17/2018		MINUTE ORDER granting, for good cause shown, <u>15</u> Consent Motion for Extension of Time to Answer, nunc pro tunc. It is hereby ORDERED that Defendants shall answer or otherwise respond to the Amended Complaint on or before 1/14/2019. Signed by Judge Ketanji Brown Jackson on 12/17/2018. (lckbj1) (Entered: 12/17/2018)
01/09/2019	<u>16</u>	Consent MOTION to Stay re <u>9</u> Amended Complaint, by DEPARTMENT OF JUSTICE, FEDERAL BUREAU OF PRISONS (Attachments: # <u>1</u> Text of Proposed Order)(Valdez, Darrell) (Entered: 01/09/2019)
01/09/2019		MINUTE ORDER granting <u>16</u> Consent Motion to Stay in light of lapse of appropriations. For good cause shown, it is hereby ORDERED that this case is STAYED and that Defendants shall answer or other respond to the Amended Complaint on or before fourteen (14) days after Congress has restored appropriations to DOJ and BOP. Counsel for Defendants shall notify the Court as soon as Congress has appropriated funds. Signed by Judge Ketanji Brown Jackson on 1/9/2019. (lckbj1) (Entered: 01/09/2019)
02/11/2019	<u>17</u>	NOTICE OF RESTORED GOVERNMENT FUNDING by DEPARTMENT OF JUSTICE, FEDERAL BUREAU OF PRISONS re Order on Motion to Stay, (Nebeker, William) (Entered: 02/11/2019)
02/11/2019	<u>18</u>	ANSWER to <u>9</u> Amended Complaint, by DEPARTMENT OF JUSTICE, FEDERAL BUREAU OF PRISONS.(Nebeker, William) (Entered: 02/11/2019)
02/11/2019		MINUTE ORDER. Defendants have provided notice that an appropriations act providing funding to the Department of Justice for a three-week period of time was enacted on 1/25/2019. (ECF No. <u>17</u> .) Accordingly, it is hereby ORDERED that the

		stay in this matter is lifted, and that the parties shall promptly confer and file a joint proposed schedule for briefing or disclosure on or before 2/25/2019. Signed by Judge Ketanji Brown Jackson on 2/11/2019. (lckbj1) (Entered: 02/11/2019)
02/22/2019	<u>19</u>	Unopposed MOTION for Extension of Time to <i>File Joint Proposed Schedule for Disclosure</i> by NATIONAL ASSOCIATION OF CRIMINAL DEFENSE LAWYERS (Attachments: # <u>1</u> Text of Proposed Order)(Graham, Megan) (Entered: 02/22/2019)
02/27/2019		MINUTE ORDER granting, for good cause shown, <u>19</u> Unopposed Motion for Extension of Time to File Joint Proposed Schedule. It is hereby ORDERED that the parties' joint proposed schedule for briefing or disclosure is due on or before 3/4/2019. Signed by Judge Ketanji Brown Jackson on 2/27/2019. (lckbj1) (Entered: 02/27/2019)
03/04/2019	<u>20</u>	Joint STATUS REPORT by NATIONAL ASSOCIATION OF CRIMINAL DEFENSE LAWYERS. (Graham, Megan) (Entered: 03/04/2019)
03/21/2019	<u>21</u>	MOTION for Hearing <i>Status Conference</i> by NATIONAL ASSOCIATION OF CRIMINAL DEFENSE LAWYERS (Attachments: # <u>1</u> Text of Proposed Order)(Graham, Megan) Modified event title on 3/26/2019 (znmw). (Entered: 03/22/2019)
04/03/2019	<u>22</u>	Joint STATUS REPORT by DEPARTMENT OF JUSTICE, FEDERAL BUREAU OF PRISONS. (Nebeker, William) (Entered: 04/03/2019)
04/05/2019		MINUTE ORDER. In light of the representations in the parties' <u>22</u> Joint Status Report, it is hereby ORDERED that the parties shall file a further joint status report on or before 5/6/2019, which shall include a proposed schedule for processing and production. It is FURTHER ORDERED that Plaintiff's <u>21</u> Motion for a Status Conference is DENIED without prejudice. Signed by Judge Ketanji Brown Jackson on 4/5/2019. (lckbj2) (Entered: 04/05/2019)
04/09/2019		Set/Reset Deadlines: Status Report due by 5/6/2019 (tj) (Entered: 04/09/2019)
05/06/2019	<u>23</u>	Joint STATUS REPORT by NATIONAL ASSOCIATION OF CRIMINAL DEFENSE LAWYERS. (Graham, Megan) (Entered: 05/06/2019)
05/07/2019		MINUTE ORDER. In light of the representations in the parties' <u>10</u> Joint Status Report, it is hereby ORDERED that the Criminal Division shall complete its searches for records responsive to Plaintiff's FOIA request on or before 5/20/2019, and that the parties shall file a further joint status report on or before 5/28/2019, which shall include a proposed schedule for further proceedings if litigation is going to be necessary. Signed by Judge Ketanji Brown Jackson on 5/7/2019. (lckbj1) (Entered: 05/07/2019)
05/28/2019	<u>24</u>	Joint STATUS REPORT by DEPARTMENT OF JUSTICE, FEDERAL BUREAU OF PRISONS. (Nebeker, William) (Entered: 05/28/2019)
05/30/2019		MINUTE ORDER. It is hereby ORDERED that the parties shall promptly confer in good faith regarding the issues identified in their <u>24</u> Joint Status report regarding the Criminal Division's search for and production of responsive records, and file a further joint status report on those matters on or before 6/13/2019. It is FURTHER ORDERED that the parties shall file an omnibus joint status report on or before 6/28/2019, which shall contain a proposed schedule for further proceedings if litigation is going to be necessary. Signed by Judge Ketanji Brown Jackson on 5/30/2019. (lckbj1) (Entered: 05/30/2019)
06/12/2019	<u>25</u>	Joint STATUS REPORT by NATIONAL ASSOCIATION OF CRIMINAL DEFENSE LAWYERS. (Graham, Megan) (Entered: 06/12/2019)
06/28/2019	<u>26</u>	Joint STATUS REPORT by NATIONAL ASSOCIATION OF CRIMINAL DEFENSE LAWYERS. (Graham, Megan) (Entered: 06/28/2019)
07/08/2019	<u>27</u>	ORDER requiring submission of materials regarding production capacity. DOJ memorandum and declaration(s) due on or before 7/22/2019; Plaintiff's response due on or before 8/5/2019. Signed by Judge Ketanji Brown Jackson on 7/8/2019. (lckbj1) (Entered: 07/08/2019)

07/08/2019		MINUTE ORDER. In light of the representations in the parties' <u>26</u> Joint Status Report, it is hereby ORDERED that, on or before 8/30/2019, the parties shall file a further joint status report, which shall contain a proposed schedule for further proceedings if litigation is going to be necessary. Signed by Judge Ketanji Brown Jackson on 7/8/2019. (lckbj1) (Entered: 07/08/2019)
07/22/2019	<u>28</u>	RESPONSE TO ORDER OF THE COURT re <u>27</u> Order, Set Deadlines filed by DEPARTMENT OF JUSTICE, FEDERAL BUREAU OF PRISONS. (Attachments: # <u>1</u> Declaration Amanda Marchand Jones)(Nebeker, William) (Entered: 07/22/2019)
08/05/2019	<u>29</u>	RESPONSE re <u>28</u> Response to Order of the Court filed by NATIONAL ASSOCIATION OF CRIMINAL DEFENSE LAWYERS. (Attachments: # <u>1</u> Declaration Megan Graham)(Graham, Megan) (Entered: 08/05/2019)
08/13/2019		MINUTE ORDER. It is hereby ORDERED that the Criminal Division shall process and produce records responsive to Searches 1 and 3 at a rate of no fewer than 500 pages per month and shall make monthly productions of documents, with the first such production occurring on or before 8/30/2019. It is FURTHER ORDERED that the Criminal Division and Plaintiff shall meet and confer regarding refining search terms or otherwise narrowing the scope of records at issue with respect to Search 2, and that the parties shall file a further omnibus joint status report on or before 10/18/2019, which shall include a proposed schedule for further proceedings if litigation is going to be necessary. Signed by Judge Ketanji Brown Jackson on 8/13/2019. (lckbj1) (Entered: 08/13/2019)
08/30/2019	<u>30</u>	Joint STATUS REPORT (<i>Seventh</i>) by NATIONAL ASSOCIATION OF CRIMINAL DEFENSE LAWYERS. (Graham, Megan) (Entered: 08/30/2019)
10/18/2019	<u>31</u>	Joint STATUS REPORT (<i>Eighth</i>) by NATIONAL ASSOCIATION OF CRIMINAL DEFENSE LAWYERS. (Graham, Megan) (Entered: 10/18/2019)
10/22/2019		MINUTE ORDER. In light of the representations in the parties' <u>31</u> Joint Status Report, it is hereby ORDERED that, on or before 11/19/2019, the parties shall file a further joint status report, which shall include a proposed schedule for further proceedings if litigation is going to be necessary. Signed by Judge Ketanji Brown Jackson on 10/22/2019. (jag) (Entered: 10/22/2019)